BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/RA-04 of 2026 in
P. No. 11 of 2025

Date of Hearing	**:**	**26/08/2026**
Date of Order	**:**	**09/09/2026**

IN THE MATTER OF:

Review Petition under section 94 (1) (c) of the EA-2003 read along with Regulation 57, 58 and 66 of Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 (HERC 2019 Regulation) seeking review and modification of order dated 16.01.2026 in case No HERC/Petition 11 of 2025 passed by this Hon'ble Commission.

Petitioner:

Dakshin Haryana Bijli Vitran Nigam, through its SE/ Commercial

Versus

Respondents:

RPS Infrastructure Ltd, Sector 27C, Faridabad through Authorized Representative Mr B K Singh.

Present

On behalf of the Petitioner

Sh. Raheel Kohli, Advocate

On behalf of the Respondent

Sh. Sanjeev Chopra, Representative

QUORUM

Shri Mukesh Garg, Chairman
Shri Shiv Kumar, Member

ORDER

1. **Petition:**

IA-15 of 2026

1.1 The present application is being preferred seeking review and modification of order dated 16.01.2026 passed by this Hon'ble Commission in Case No. HERC/Petition-11of 2025. It is submitted that the contents of the accompanying review petition may be treated as part and parcel if this application and the same are not repeated for the sake of brevity.

1.2 It is submitted that there is a delay of 9 days in filling the present petition and the said delay is neither intentional nor deliberate. In this regard, attention of this Hon'ble Commission is invited to the following facts:

i. On 16.01.2026, the Review Petitioner became aware of the Order dated 16.01.2026 passed by this Hon'ble Commission in Case No. HERC/Petition-11 of 2025 (hereinafter referred to as the "Original Order"). Upon examining the said Order in light of the prevailing regulations and its potential future implications, the Commercial Wing, along with its observations, submitted the matter on 29.01.2026 for approval of the Managing Director, Dakshin Haryana Bijli Vitran Nigam ("DHBVN"). Upon approval by the Managing Director, the matter was, on 09.02.2026, referred to LR/HPU, Panchkula for obtaining legal opinion.

ii. On 09/02/2026, LR/HPU, Panchkula advised that an appeal be preferred against the Original Order. Pursuant thereto, and in accordance with the said advice, the file was placed before the Nigam Management on 13.02.2026 for necessary approval. The Nigam Management approved the recommendation of LR/HPU, Panchkula.

iii. Thereafter, vide communication dated 17.02.2026, requested LR/HPU, Panchkula to initiate the process for engagement of counsel. In response, LR/HPU, Panchkula appointed the present counsel on 18.02.2026.

iv. Upon a preliminary examination of the applicable regulations of this Hon'ble Commission, along with a review and analysis of the Original Order and relevant precedents, the present counsel advised that it would be appropriate to seek a review of the Original Order instead of preferring an appeal. Acceding to the aforesaid advice, DHBVN instructed the present counsel to proceed with the preparation and filing of the present Review Petition.

v. Thereafter, upon detailed discussions with the concerned officials of DHBVN and after reviewing the relevant records pertaining to the matter, the first draft of the Review Petition was prepared and shared on 08.03.2026 for comments and inputs.

vi. Subsequently, further inputs and clarifications were received from the concerned officials of DHBVN. Based on the same, the Review Petition was duly revised and finalized, and was accordingly filed before this Hon'ble Commission on 11.03.2026.

1.3 It is respectfully submitted that there has been an inadvertent delay of 9 days in filing the present Review Petition. The said delay is neither intentional nor deliberate, but has occurred on account of the time consumed in internal approvals, consultations, and finalisation of the pleadings. It is further submitted that the Review Petitioner has a strong prima facie case on merits and a good likelihood of success in the present proceedings. It is also submitted that, in the event the Original Order is not reviewed/modified, the same would have substantial commercial implications, ultimately impacting the general consumers of the State of Haryana. It is, therefore, prayed that this Hon'ble Commission may kindly condone the said delay in the interest of justice.

PRAYER

In light of the aforementioned facts and circumstances read with the submissions set out above, it is humbly prayed that this Hon'ble Commission may be pleased to:

a. Condone the delay of 9 days in filling the present petition in terms of the submissions made above;
b. Pass such other and further orders that this Hon'ble Commission may deem fit considering the facts and circumstances of the present case and in the interest of justice and equity.

Main Pettion

The Petitioner respectfully submits as under: -

1.1 The present petition has been filed Under Section 94 (1) (c) of the Act, 2003 (Electricity Act), read along with Regulation 57, 58, 65 and 66 of Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 (HERC 2019 Regulations) is being preferred by Dakshin Haryana Bijli Vitran Nigam ("Review Petitioner") seeking review and modification of order dated 16.01.2026 passed by this Hon'ble Commission in Case No. HERC/Petition-11of 2025 ("Original Order"), in terms of error apparent on the face of record in the Original Order. Copy of order dated 16.01.2026 in Case No. HERC/Petition-11of 2025 is attached.

1.2 Conspectus of the matter:

1.2.1 It is submitted that the Review Petitioner is aggrieved by the below reproduced finding of this Hon'ble Commission in the Original Order:

"6. On a considered evaluation of the pleadings, averments, and the statutory framework, the Commission notes that Regulation 3.2.2 intends recovery of differential cost where supply is given at a voltage other than the specified level. However, the regulation proceeds on the premise that such higher voltage infrastructure is available or is to be created. In the present case, the material on record, including the sanctioned electrification plans and correspondence, clearly establishes that 33 kV infrastructure is not available in the vicinity and, as stated by the petitioner without specific rebuttal, HVPN has taken a policy decision not to allow further 33 kV bays at existing 66 kV substations in Faridabad. In

such a situation, no expenditure is either incurred or proposed to be incurred by the respondents towards creation of 33 kV infrastructure for the petitioner. Demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery which results in unjust enrichment of the distribution licensee."

… ….

"9. In view of the above facts and statutory provisions of the Electricity Act, 2003, the HERC (Electricity Supply Code) Regulations, 2014, the (Single Point Supply) Regulations, 2020, and the principles laid down in earlier orders of the Commission, the Commission observes that the petitioner falls in a category where supply at 11 kV has been necessitated solely due to system constraints of the licensees and where there is no likelihood of creation of 33 kV infrastructure in future. In such circumstances, insistence on payment of differential cost of Rs. 3,11,25,012/- is arbitrary, lacks legal justification and causes undue hardship.

10. Accordingly, The Commission allows the petition. The demand raised by the respondents towards differential cost between 33 kV and 11 kV supply is deferred till the creation of 33 kV infrastructure in future avoiding undue burden on the petitioner for network deficiency attributable to respondent. The respondents are directed to release the sanctioned load and proceed further in accordance with law, without insisting upon differential cost at present. Upon 33 kV readiness notice by respondent, the petitioner shall be liable to pay differential cost prevailing at that time irrespective of petitioner opting either to shift to 33 kV or to retain 11 kV supply."

1.2.2 That in view of the foregoing, the Review Petitioner is constrained to invoke the review jurisdiction of this Hon'ble Commission for rectification of an error apparent on the face of the record that has crept into the Original Order. It is respectfully submitted that the Original Order, inter alia, proceeds in clear disregard of the express mandate of Regulation 3.2.2 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014, as amended by the Haryana Electricity Regulatory Commission (Electricity Supply Code) (2nd Amendment) Regulations, 2019, which unequivocally requires the consumer to deposit the differential cost between 33 kV and 11 kV supply. The impugned interpretation is also contrary to the scheme and mandate of Section 46 of the Electricity Act, 2003, which empowers recovery of expenses reasonably incurred for providing electric lines or plant used for the purpose of giving supply.

1.2.3 It is further respectfully submitted that, while passing the Original Order, this Hon'ble Commission has overlooked its own findings and reasoning recorded in its Order dated 10.12.2019 in Petition No. HERC/PRO-29 of 2017, which formed the very basis for introducing the aforesaid 2nd Amendment to the Supply Code to address situations where 33 kV infrastructure is not available.

The failure to consider the said binding regulatory framework and the Commission's own earlier determination has resulted in an error apparent on the face of the record, warranting interference in review.

1.3 Brief facts: It is submitted that the following vital facts merits attention and consideration of this Hon'ble Commission for adjudication of the present petition.

1.3.1 In exercise of the powers conferred under Section 50 and clause (x) of sub-section (2) of Section 181 of the Electricity Act, 2003, read with all other powers enabling it in this behalf, the Haryana Electricity Regulatory Commission, vide notification dated 08.01.2014, framed the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 ("Supply Code, 2014"). Regulation 3.2.1 of the Supply Code, 2014 prescribes the applicable voltage levels for supply of electricity to different categories of consumers. A copy of the relevant extract of the Supply Code, 2014 is annexed.

1.3.2 In the year 2017, the Review Petitioner filed Petition No. HERC/PRO-29 of 2017 before this Hon'ble Commission seeking amendment of Regulation 3.2.2 of the Supply Code, 2014. The said petition was filed, inter alia, to obtain regulatory approval for permitting supply to consumers having load in the range of 5 MVA to 10 MVA through an 11 kV feeder in cases where 33 kV voltage level infrastructure is not available. The petition further sought approval to recover the proportionate cost of the 66 kV substation (feeding substation) from the applicant/consumer in such circumstances.

1.3.3 Pursuant thereto, this Hon'ble Commission duly considered the concerns raised by the Review Petitioner regarding the non-availability of 33 kV voltage level infrastructure in certain areas of supply. Accordingly, this Hon'ble Commission vide order dated 10.12.2019, inter alia, permitted the Review Petitioner to supply electricity to consumers having load in the range of 5 MVA to 10 MVA through an 11 kV feeder in such circumstances. While this Hon'ble Commission found merit in the Review Petitioner's proposal to recover the proportionate cost of the 66 kV (feeding) substation from the applicant/consumer**,** the Commission adopted a balanced and pragmatic approach**.** The Hon'ble Commission observed that it would not be economically appropriate to saddle consumers with the proportionate cost of the 66 kV substation. Instead, the Commission directed that the concerned applicant/consumer shall deposit only the differential cost between 33 kV and 11 kV supply. Consequently, this Hon'ble Commission amended the Regulation 3.2.2 of the Supply Code, 2014**.** It is pertinent to mention that the amount so deposited is utilized towards augmentation of the 66 kV substation (from which the 11 kV feeder emanates), while the remaining cost of such augmentation is recovered through the Aggregate Revenue Requirement mechanism in accordance with the applicable regulatory framework. Copy of order dated 10.12.2019 passed in Petition No. HERC/PRO-29 of 2017 is attached.

1.3.4 Consequently, the order dated 10.12.2019 passed in Petition No. HERC/PRO-29 of 2017, was given effect by this Hon'ble Commission on 08.01.2020 notifying Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (2nd Amendment) Regulations, 2019, thereby introducing amended Regulation 3.2.2 ("Amended Supply Code, 2019"). Copy of relevant excerpt of Amended Supply Code, 2019 is attached.

1.3.5 On 08.12.2021, an initial electrification plan was sanctioned assessing an ultimate load of 7242.81 kW / 8047.57 kVA, which necessitated supply at the 33 kV voltage level. Pursuant thereto, the Respondent deposited a bank guarantee of ₹296.58 lakhs on 25.01.2024. However, the said plan could not be operationalised due to the refusal of the transmission licensee to permit construction of an additional 33 kV bay at the 66 kV Sub-Station Sector 37, Faridabad. Copy of initial electrification plan dated 08.12.2021 is attached.

1.3.6 Subsequently, owing to revision of load norms, a revised electrification plan was sanctioned on 26.02.2024, assessing the ultimate load at 5281.21 kW / 5868 kVA and, inter alia, permitting supply at the 11 kV level through an independent 11 kV feeder emanating from the 66 kV Sub-Station, Sector 37, Faridabad, subject to deposit only the differential cost between 33 kV and 11 kV supply in terms of Regulation 3.2.2 of Amended Supply Code, 2019. Copy of the revised electrification plan sanctioned on 26.02.2024 is attached.

1.3.7 The Respondent thereafter sought sanction of a partial load of 1100 kVA, which was granted on 26.03.2024, to be fed at the 11 kV level from the 66 kV Sub-Station, Sector 37, Faridabad. Copy of the sanction letter dated 26.03.2024 is attached herewith and marked as "Annexure P-7".

1.3.8 Subsequently, the Review Petitioner, vide letter dated 16.12.2024, requested the Respondent to deposit the differential cost between 33 kV and 11 kV supply in accordance with Regulation 3.2.2 of the Amended Supply Code, 2019. It is pertinent to mention that the said demand was determined in accordance with the manner approved by this Hon'ble Commission vide order dated 15.02.2023 passed in HERC/PRO No. 60/2022. Copy of demand letter dated 16.12.2024 is attached herewith and marked as "Annexure P-8". Copy of order dated 15.02.2023 passed in HERC/PRO No. 60/2022 is attached herewith and marked as "Annexure P-9".

1.3.9 Aggrieved by the said demand, the Respondent approached this Hon'ble Commission by filing Petition No. HERC/P No. 11 of 2025, seeking removal of alleged difficulties purportedly arising on account of commercial constraints in the implementation of Regulation 3.2.2 of the Amended Supply Code, 2019. The said petition was allowed by this Hon'ble Commission vide Order dated 16.01.2026; however, the said Order has been passed in contravention of Regulation 3.2.2 of the Amended Supply Code, 2019, which unequivocally mandates that the consumer shall deposit the differential cost between 33 kV and 11 kV supply.

1.4 GROUND FOR REVIEW

The present review is preferred on the following grounds which are taken without prejudice to each other.

A. Because the Order dated 16.01.2026 is liable to be reviewed as the same suffers from an error apparent on the face of the record. This Hon'ble Commission, while allowing Petition No. HERC/P No. 11 of 2025, has overlooked the express mandate of Regulation 3.2.2 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 as amended by the Haryana Electricity Regulatory Commission (Electricity Supply Code) (2nd Amendment) Regulations, 2019. The said regulation unequivocally mandates that where supply is extended at 11 kV level in cases where 33 kV infrastructure is not available, the concerned consumer is required to deposit the differential cost between 33 kV and 11 kV supply. The impugned order effectively dispenses with this statutory requirement and thereby runs contrary to the binding regulatory framework.

B. Because this Hon'ble Commission has further failed to appreciate that the requirement for deposit of the differential cost between 33 kV and 11 kV supply was consciously introduced by this Hon'ble Commission itself pursuant to its detailed findings recorded in Order dated 10.12.2019 passed in Petition No. HERC/PRO-29 of 2017. The said order clearly records that while the proposal of the Review Petitioner to recover proportionate cost of the 66 kV substation from consumers had merit, this Hon'ble Commission adopted a balanced approach and directed that the concerned consumer shall deposit only the differential cost between 33 kV and 11 kV supply. The order under review, by permitting deviation from the said requirement, effectively defeats the very purpose for which Regulation 3.2.2 was amended.

C. The Hon'ble Commission has also failed to consider that the power to remove difficulty cannot be invoked on the ground of alleged commercial hardship or financial inconvenience faced by an individual consumer in complying with the provisions of a regulation. Commercial inconvenience or financial burden cannot constitute a "difficulty" within the meaning of the power to remove difficulty, particularly when the regulatory provision is clear, unambiguous and capable of implementation.

D. The Hon'ble Commission while passing the order overlooked the settled regulatory principle that the power to remove difficulty is intended to address situations where there exists a genuine impediment or practical difficulty in the implementation of a regulation. Such power cannot be exercised to dilute, override, or nullify the substantive mandate of the regulation itself. In the present case, no implementation difficulty whatsoever existed in giving effect to Regulation 3.2.2 of the Amended Supply Code, 2019.

E. By allowing the Respondent's petition and dispensing with the requirement of depositing the differential cost between 33 kV and 11 kV supply, this Hon'ble Commission has, in effect, rendered Regulation 3.2.2 of the Amended Supply Code, 2019 inoperative in the facts of the present case. Such an approach amounts to indirectly amending or suspending the operation of a binding regulation through an adjudicatory order, which is impermissible in law.

F. Because the Original Order overlooks the regulatory scheme under Section 46 of the Electricity Act, 2003, which expressly permits recovery of expenses reasonably incurred in providing electric lines or plant used for the purpose of giving supply. The requirement of depositing the differential cost between 33 kV and 11 kV supply is fully aligned with the said statutory framework and the regulatory intent of ensuring equitable recovery of infrastructure costs.

G. Because this Hon'ble Commission is bound by its regulation. However, it is most humbly submitted that, from the above submission it is evident that this Hon'ble Commission while passing the Original Order acted contrary to the said principle. Therefore, the same amount to an error which is apparent on the face of record, which deserves to be rectified by this Hon'ble Commission. The same principle is upheld the Hon'ble Supreme Court of India in the constitutional bench decision of PTC India Limited Vs. Central Electricity Regulatory Commission *(2010)4 SCC 603* and Appellate Tribunal for Electricity in case titled Tamil Nadu Electricity Board Vs. Tamil Nadu Electricity Regulatory Commission numbered Appeal No. 51 of 2008 decided on 02.04.2009. For ease of refence the relevant portion of the said judgement is reproduced below:

PTC India (*supra*)

> *"54. As stated above, the 2003 Act has been enacted in furtherance of the policy envisaged under the Electricity Regulatory Commissions Act, 1998 as it mandates establishment of an independent and transparent Regulatory Commission entrusted with wide-ranging responsibilities and objectives inter alia including protection of the consumers of electricity. Accordingly, the Central Commission is set up under Section 76(1) to exercise the powers conferred on, and in discharge of the functions assigned to, it under the Act. On reading Sections 76(1) and 79(1) one finds that the Central Commission is empowered to take measures/ steps in discharge of the functions enumerated in Section 79(1) like to regulate the tariff of generating companies, to regulate the inter-State transmission of electricity, to determine tariff for inter-State transmission of electricity, to issue licences,*

to adjudicate upon disputes, to levy fees, to specify the Grid Code, to fix the trading margin in interState trading of electricity, if considered necessary, etc. These measures, which the Central Commission is empowered to take, have got to be in conformity with the regulations under Section 178, wherever such regulations are applicable. Measures under Section 79(1), therefore, have got to be in conformity with the regulations under Section 178.

55. To regulate is an exercise which is different from making of the regulations. However, making of a regulation under Section 178 is not a precondition to the Central Commission taking any steps/measures under Section 79(1). As stated, if there is a regulation, then the measure under Section 79(1) has to be in of the 2003 Act. An order imposing regulatory fees could be passed even in the absence of a regulation under Section 178. If the levy is unreasonable, it could be the subject-matter of challenge before the appellate authority under Section 111 as the levy is imposed by an order/decision-making process. Making of a regulation under Section 178 is not a precondition to passing of an order levying a regulatory fee under Section 79(1)(g). However, if there is a regulation under Section 178 in that regard then the order levying fees under Section 79(1)(g) has to be in consonance with such regulation conformity with such regulation under Section 178. This principle flows from various judgments of this Court which we have discussed hereinafter. For example, under Section 79(1)(g) the Central Commission is required to levy fees for the purpose of the 2003 Act. An order imposing regulatory fees could be passed even in the absence of a regulation under Section 178. If the levy is unreasonable, it could be the subject-matter of challenge before the appellate authority under Section 111 as the levy is imposed by an order/decision-making process. Making of a regulation under Section 178 is not a precondition to passing of an order levying a regulatory fee under Section 79(1)(g). However, if there is a regulation under Section 178 in that regard then the order levying fees under Section 79(1)(g) has to be in consonance with such regulation.

56. Similarly, while exercising the power to frame the terms and conditions for determination of tariff under Section 178, the Commission has to be guided by the factors specified in Section 61. It is open to the Central Commission to specify terms and conditions for determination of tariff even in the absence of the regulations under Section 178. However, if a regulation is made under Section 178, then, in that event, framing of terms and conditions for determination of tariff under Section 61 has to be in consonance with the regulations under Section 178.

57. One must keep in mind the dichotomy between the power to make a regulation under Section 178 on the one hand and the various enumerated areas in Section 79(1) in which the Central Commission is mandated to take such measures as it deems fit *to fulfil the objects of the 2003 Act. Applying this test to the present controversy, it becomes clear that one such area enumerated in Section 79(1) refers to fixation of trading margin. Making of a regulation in that regard is not a precondition to the Central Commission exercising its powers to fix a trading margin under Section 79(1)(j), however, if the Central Commission in an appropriate case, as is the case herein, makes a regulation fixing a cap on the trading margin under Section 178 then whatever measures the Central Commission takes under Section 79(1)(j) have to be in conformity with Section 178."*

Tamil Nadu Electricity Board (*supra*)

> *"11) In our opinion, the failure to adhere to the procedure for passing a tariff order is an error apparent and can be set aside in review. Secondly, as mentioned above, sufficient opportunity to represent its case was not given to the appellant. This has resulted in failure of justice to the extent the principal order dated 20th March, '06 has ignored all revenue implications for the appellant. The impugned order can therefore, be said to be suffering from apparent error. In any case, this lapse can be covered by a third ground for review namely 'any other sufficient reason'. In the case of Board of Control For Cricket in India And Another Vs. Netaji Cricket Club And Others in case No. (2005) 4 SCC 741, the Supreme Court, inter alia, observed the following:*
>
> > *"90. Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order. An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words "sufficient reason" in Order 47 Rule 1 of the Code are wide enough to include a misconception of fact or law by a court or even an advocate. An application for review may be necessitated by way of invoking the doctrine "actus curiae neminem gravabit".*
>
> *12) In this judgment, the Supreme Court also said that justice is a virtue that transcends all barriers and rules or procedures or technicalities of law cannot stand in the way of administration of justice. The Supreme Court observed if the court finds that an error pointed out was such that an earlier judgment would not have been passed but for erroneous assumptions and that its perpetration would result in miscarriage of justice, it can be rectified by the court under its power of review."*

H. The failure to consider the binding regulatory provisions, the Commission's own earlier determination in Petition No. HERC/PRO-29 of 2017, and the statutory framework governing recovery of supply-related costs has resulted in an error apparent on the face of the record, warranting review of the Order dated 16.01.2026.

I. The Order under review also fails to appreciate the regulatory and financial framework underlying Regulation 3.2.2 of the Amended Supply Code, 2019. As recorded by this Hon'ble Commission in its Order dated 10.12.2019 passed in Petition No. HERC/PRO-29 of 2017, the amount deposited by the concerned consumer towards the differential cost between 33 kV and 11 kV supply is intended to be utilized for augmentation of the 66 kV substation from which the 11 kV feeder emanates, while the remaining cost of such augmentation is recovered through the Aggregate Revenue Requirement (ARR) mechanism in accordance with the applicable regulatory framework. By dispensing with the requirement of such deposit through the impugned order, the entire cost of augmentation would effectively be passed on to the general body of electricity consumers in the State of Haryana through ARR, while the Respondent would enjoy the benefit of supply from the 66 kV substation and the associated infrastructure without contributing towards the same. Such an outcome is contrary to the regulatory intent, inequitable to other consumers, and defeats the cost-allocation framework consciously adopted by this Hon'ble Commission.

J. The Order under review also has wider regulatory and financial implications beyond the facts of the present case. The Review Petitioner is required to raise similar demands in future cases strictly in terms of Regulation 3.2.2 of the Amended Supply Code, 2019 wherever supply is extended at 11 kV level in the absence of 33 kV infrastructure. If the Order under review is allowed to stand, it would create an untenable precedent affecting the Review Petitioner's ability to enforce the said regulation in future cases. Consequently, the cost that ought to be recovered from the concerned consumers in the form of the differential cost between 33 kV and 11 kV supply would instead be required to be absorbed through the Aggregate Revenue Requirement mechanism. This would ultimately result in the burden being passed on to the general body of electricity consumers in the State of Haryana in the form of higher tariffs, thereby causing significant financial repercussions and defeating the regulatory framework governing equitable cost recovery.

K. Because the interpretation adopted in the Order under Review results in an internal inconsistency with the regulatory framework governing voltage levels under the HERC (Electricity Supply Code) Regulations, 2014. Regulation 3.2.1 prescribes the normative voltage levels corresponding to different categories of sanctioned load as part of the distribution system planning framework. For loads exceeding 5 MVA, the prescribed voltage level is 33 kV. Regulation 3.2.2 was introduced to address situations where the prescribed voltage infrastructure may not be available at a particular location and permits supply at a lower voltage level, subject to the deposit of differential cost. The regulatory scheme, therefore, contemplates that where a consumer whose sanctioned load falls within a higher voltage category is permitted supply at a lower voltage level due to system constraints, such relaxation in voltage level does not absolve the consumer from contributing towards infrastructure cost corresponding to the prescribed voltage level for that load category. The differential cost requirement is intrinsically linked to the sanctioned load and applicable voltage norm rather than the physical creation of a particular asset. If the applicability of Regulation 3.2.2 is made contingent upon the creation of a specific higher voltage asset, consumers having loads exceeding the prescribed threshold may avail supply at lower voltage without contributing to the infrastructure cost corresponding to their load category. Such an interpretation would dilute the normative voltage level framework and shift infrastructure burden to the distribution licensee and ultimately to the general body of consumers through ARR. This aspect constitutes an error apparent on the face of the record.

L. Because the Order under Review overlooks the settled regulatory principle of cost causation governing infrastructure development in the electricity sector. The doctrine of cost causation mandates that the consumer whose load or demand necessitates the creation or strengthening of system infrastructure should bear the corresponding cost attributable to such requirement. This principle has consistently been recognised in regulatory practice and judicial precedents governing electricity sector regulation. The framework embodied in Regulation 3.2.1 and Regulation 3.2.2 aligns with this doctrine. While Regulation 3.2.1 prescribes normative voltage levels, Regulation 3.2.2 provides flexibility by permitting supply at a lower voltage level where infrastructure is not available, subject to the deposit of differential cost corresponding to the prescribed voltage level. Deferring recovery of differential cost shifts the infrastructure burden attributable to the consumer’s load to the distribution licensee and ultimately to consumers at large through ARR, which defeats the regulatory intent underlying Regulation 3.2.2.

M. Because the Order under Review does not fully consider the established principles of distribution system planning underlying the voltage level framework prescribed in the Supply Code. Voltage level norms under Regulation 3.2.1 are based on engineering principles governing electricity distribution system planning. Higher loads are connected at higher voltage levels to optimize network capacity, reduce technical losses, maintain voltage stability and ensure reliable operation of the distribution system. Regulation 3.2.2 was introduced to address situations where prescribed infrastructure may not be available. While permitting supply at a lower voltage level in such circumstances, the regulation simultaneously requires the deposit of differential cost corresponding to the prescribed voltage level for the sanctioned load. Permitting supply at a lower voltage level without corresponding infrastructure contribution may weaken the technical planning framework embedded in the Supply Code and could lead to situations where higher loads are connected at lower voltage levels without associated infrastructure responsibility.

N. Because the Order under Review proceeds on an assumption regarding Regulation 3.2.2, which is not borne out from the text of the regulation itself. The finding recorded in the Order proceeds on the premise that recovery of differential cost under Regulation 3.2.2 is envisaged only where the corresponding higher voltage infrastructure is available or proposed to be created. However, a plain reading of Regulation 3.2.2 indicates that the provision itself addresses situations where the prescribed voltage level infrastructure is not available in the area of supply. In such circumstances, the regulation expressly permits supply through an 11 kV feeder, subject to the consumer bearing the difference in cost between the infrastructure corresponding to 33 kV supply and that required for 11 kV supply. Thus, the regulatory framework itself contemplates situations where 33 kV infrastructure is not available and nevertheless mandates recovery of differential cost. Making such recovery contingent upon the creation of 33 kV infrastructure introduces a condition not found in the regulation itself and therefore constitutes an error apparent on the face of the record.

1.5 In view of the foregoing facts and grounds, the Review Petitioner respectfully submits that the Order dated 16.01.2026 is vitiated by errors apparent on the face of the record, as it overlooks the express and unambiguous mandate of Regulation 3.2.2 of the Amended Supply Code, 2019, disregards the statutory scheme embodied under Section 46 of the Electricity Act, 2003, and fails to give due effect to the findings and regulatory intent recorded by this Hon'ble Commission in its Order dated 10.12.2019 passed in Petition No. HERC/PRO-29 of 2017. The impugned order, if allowed to stand, would effectively dilute the binding regulatory framework and defeat the very purpose for which the said amendment was introduced, while simultaneously shifting the financial burden of infrastructure augmentation to the general body of consumers in the State of Haryana through the ARR mechanism. The Review Petitioner, therefore, respectfully prays that this Hon'ble Commission may be pleased to review, recall and/or suitably modify the Order dated 16.01.2026 so as to restore the correct interpretation and implementation of Regulation 3.2.2 of the Amended Supply Code, 2019, including the mandatory requirement for the concerned consumer to deposit the differential cost between 33 kV and 11 kV supply.

1.6 The Review Petitioner craves leave to add/alter/amend the submissions, prayers and also provide such details and materials as may be necessary in the course of the proceedings before this Hon'ble Commission. Further, the Review Petitioner craves leave of this

Hon'ble Commission to rely on any other documents/pleadings as may be found necessary during the course of hearing.

1.7 It is submitted that the Review Petitioner has not preferred any appeal against order dated 16.01.2026 in any court of law. Further, the Review Petitioner undertakes to immediately inform this Hon'ble Commission in the event an appeal is filed against order dated 16.01.2026.

PRAYER

In view of the aforesaid, it is most respectfully prayed that the Hon'ble Commission may:

A. Review and recall/modify the Order dated 16.01.2026 passed in Petition No. HERC/P No. 11 of 2025, as the same suffers from errors apparent on the face of the record and is contrary to Regulation 3.2.2 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 as amended by the Haryana Electricity Regulatory Commission (Electricity Supply Code) (2nd Amendment) Regulations, 2019.
B. Hold that the requirement for deposit of differential cost between 33 kV and 11 kV supply in terms of Regulation 3.2.2 of the Amended Supply Code continues to apply in cases where supply is permitted at 11 kV level in the absence of 33 kV infrastructure
C. Hold and declare that the Respondent is liable to deposit the differential cost between 33 kV and 11 kV supply in accordance with Regulation 3.2.2 of the Amended Supply Code, 2019;
D. Set aside and/or suitably modify the observations and directions contained in the Order dated 16.01.2026 insofar as they defer the recovery of the differential cost between 33 kV and 11 kV supply.
E. Pass any such other order/s and/or direction/s, which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

2. **Reply filed by the Respondent received on 19.05.2026**

2.1 That the present Reply is being filed on behalf of Respondent M/S RPS Infrastructure Ltd. Faridabad ("RPS" for brevity) or the (Answering Respondents) through B K Singh, the authorized person by the Board of Respondents, who is fully conversant with the facts, figures and circumstances of the case on the knowledge derived from the record and official correspondences with the Petitioners and is also duly authorized to submit, aver and sign the present Reply.

2.2 That the Respondent is a developer of properties mainly in NCR and possesses a valid license duly issued by the office of Director, Town & Country Planning Haryana vide Scheme no. LC-1555A and License No. 19 of 2010 dated 10.03.2010 to M/S Gandhar Exports Ltd. and M/S Shivalik Global Ltd. in collaboration with M/S RPS Infrastructure. Ltd. (the Respondent herein) for setting up of an IT Park at village Sarai Khwaja in Sector 27C, Faridabad over an area measuring 7.587 acres which stands renewed till 09.03.2029 vide Memo No.LC-1555-je(MK)-2024/11697 dated 09.04.2024.

2.3 That the Petitioner is a State owned Power Distribution Company (for brevity “DISCOM”) and registered under Companies Act 1956, formed under corporatization / restructuring of erstwhile Haryana State Electricity Board and is holder of distribution and retail supply of electricity license in the southern zone of the state of Haryana. The Petitioner is sole electricity distribution licensee of the area as Dakshin Haryana Bijli Vitran Nigam (DHBVN) having its head office at Vidyut Nagar, Hisar (Haryana).

2.4 That all submissions herein are made in the alternative and without prejudice to each other. Any allegations / adverts or statements made by the Petitioner against the Respondents are denied in totality and the same may be treated as denial as if it was made in seriatim. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

2.5 That the review petition filed by the Petitioners is nothing but a misuse of the process of law and is devoid of merits and is therefore liable to be dismissed in the first instance.

2.6 That the Respondents reserve the right to file additional evidence, including, but not limited to, additional documents and witnesses as well as the expert opinion, should the same become inevitable at any stage of the proceedings and/or arising out of the further submissions made by the Petitioners.

2.7 That the present petition by the Petitioners has been filed to seek review of the order passed by the Hon’ble Commission on dated 16.01.2026 in case no. 11 of 2025. The Order passed by Hon'ble Commission is a detailed, reasoned and well-considered order, based upon a full consideration of all pleadings, written submissions and oral arguments of both parties. The Review Petitioner had ample opportunity to place its entire case before the Commission and availed itself of the same. The present Review Petition is merely an attempt to re-litigate issues that have already been conclusively decided. The Petitioners seek to re-adjudicate issues already decided, as the present petition rests on grounds identical to those submitted and considered during the proceedings of Case No. 11 of 2025

2.8 That the Respondents have performed their part of the obligations with full honesty and integrity and have acted bona fide at all stages and have complied with all directions and communications issued by the Petitioners from time to time. Respondents have not violated any rules or regulations of the Petitioners, have faithfully followed the terms and conditions of the sanctioning of load, has humbly and gracefully accepted the changed stances of the Petitioners without asking for any additional technical or financial favor.

2.9 That before replying to the para-wise contents of the review petition filed by the Petitioners, the Respondents herein would like to set out certain preliminary submissions and objections:

PRELIMINARY SUBMISSIONS AND OBJECTIONS:

2.1 That a bare perusal of the contents of review petition filed by the Petitioners show that the submissions made by them are totally vague, baseless, evasive and have failed to address the substantive question of interpretation of law. The Petitioners are yet again trying to escape their liability and obligations on one pretext or the other.

2.2 That the petition filed by the Petitioners is not bona fide and is not in the interest of justice. It is imperative to note that the grounds of review of order dated 16.01.2026 are devoid of merit and legally untenable. By filing the review petition, the Petitioners have yet again tried to deliberately skip their responsibility mandated by the Electricity Act 2003 and the Regulations.

2.3 That before proceeding further, let us understand as to how the electricity distribution business is Regulated as a Revenue Neutral Model (as commented upon by APTEL and SERCs including this Hon'ble Commission):

i. Electricity distribution is generally structured as a revenue-neutral, regulated business, meaning distribution companies (DISCOMs) are designed to recover their approved costs, including a fair return on equity, rather than maximize profits through high tariffs. However, in practice, achieving true revenue neutrality is challenging, leading to regulatory adjustments and "truing up" to bridge gaps between projected and actual costs.

ii. Regulated Nature: State Electricity Regulatory Commissions (SERCs) determine the Annual Revenue Requirement (ARR) for licensees, aiming for a balance where costs are passed onto consumers without excessive profit margins.

iii. "True Up" Mechanism: The difference between projected costs and actual expenditures (revenue gap or surplus) is adjusted in future tariffs during the "true up" stage, which is intended to ensure ultimate revenue neutrality over time.

iv. Challenges to Neutrality: DISCOMs often struggle with financial viability due to inefficient revenue collection, high technical losses, and inadequate or delayed subsidy payments, which can prevent them from being truly revenue-neutral.

v. Tariff Structure: To keep distribution revenue-neutral without raising tariffs, regulators often emphasize optimizing power procurement and reducing losses.

2.4 That before proceeding further, the operative part of the order dated 16.01.2026 in case no. 11 of 2025 is reproduced herein below for the ready reference of this Hon'ble Commission, which the Petitioners are now seeking the review of:

"5. The respondent has relied upon the mandatory nature of Regulation 3.2.2 of the Supply Code, notified under Section 50 read with Section 181 of the Electricity Act. Accordingly, the revised electrification plan sanctioned on 26.02.2024 clearly stipulated the liability of the petitioner to bear the differential cost, that such liability was known to the petitioner well before the demand was raised on 16.12.2024, and that the regulation leaves no discretion with the licensee to waive or relax such cost. Reliance has been placed on the decision of the Commission in Sharad Farms & Holdings Pvt. Ltd. vs. Managing Director & Ors. (Petition No. PRO-30 of 2020, decided on 11.07.2022), wherein it was categorically held that exemption from payment of differential cost

under Regulation 3.2.2 cannot be granted, and that the power to relax cannot be exercised so as to amend the regulation itself. The licensee has also relied on the order dated 26.06.2019 in Petition No. 13 of 2018 (Haryana Chamber of Commerce and Industries), to submit that amendment of regulations is a legislative function and cannot be undertaken in an adjudicatory proceeding in case of an individual consumer.

6. On a considered evaluation of the pleadings, averments, and the statutory framework, the Commission notes that Regulation 3.2.2 intends recovery of differential cost where supply is given at a voltage other than the specified level. However, the regulation proceeds on the premise that such higher voltage infrastructure is available or is to be created. In the present case, the material on record, including the sanctioned electrification plans and correspondence, clearly establishes that 33 kV infrastructure is not available in the vicinity and, as stated by the petitioner without specific rebuttal, HVPN has taken a policy decision not to allow further 33 kV bays at existing 66 kV substations in Faridabad. In such a situation, no expenditure is either incurred or proposed to be incurred by the respondents towards creation of 33 kV infrastructure for the petitioner. Demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery which results in unjust enrichment of the distribution licensee.

7. Further the ultimate sanctioned load of 5029.73 kVA is marginally above threshold of 5000 kVA and No additional bay or extra investment is required for ultimate load as no 2nd 11 kV feeder is needed.

8. The reliance placed by the respondents on the decision in Sharad Farms is distinguishable, on facts. In that case, the Commission itself emphasized that differential cost must be reasonable and relatable to the actual infrastructure from the approved feeding source. In the present matter, the demand of Rs. 3,11,25,012/- is based on a hypothetical comparison with 33 kV infrastructure which is neither available nor feasible, while the entire 11 kV feeder has already been created at the cost of the petitioner.

9. In view of the above facts and statutory provisions of the Electricity Act, 2003, the HERC (Electricity Supply Code) Regulations, 2014, the (Single Point Supply) Regulations, 2020, and the principles laid down in earlier orders of the Commission, the Commission observes that the petitioner falls in a category where supply at 11 kV has been necessitated solely due to system constraints of the licensees and where there is no likelihood of creation of 33 kV infrastructure in future. In such circumstances, insistence on payment of differential cost of Rs. 3,11,25,012/- is arbitrary, lacks legal justification and causes undue hardship.

10. Accordingly, The Commission allows the petition. The demand raised by the respondents towards differential cost between 33 kV and 11 kV supply is deferred till the creation of 33 kV infrastructure in future avoiding undue burden on the petitioner for network deficiency attributable to respondent. The respondents are directed to release the *sanctioned load and proceed further in accordance with law, without insisting upon differential cost at present. Upon 33 kV readiness notice by respondent, the petitioner shall be liable to pay differential cost prevailing at that time irrespective of petitioner opting either to shift to 33 kV or to retain 11 kV supply. 11. The petition is disposed of in above terms."*

2.5 That throughout the review petition, the Petitioners have emphasized upon Regulation 3.2.2 of Haryana Electricity Regulatory Commission (Electricity Supply Code), 2014 and its subsequent Amendments. Though the order passed by the Hon'ble Commission above has taken due cognizance of Regulation 3.2.2, yet the Regulations are reproduced below for ready reference:

"3.2.2 Provided that in case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than those specified above, the licensee may give the same subject to the Commission's approval."

4.2.1 The licensee is responsible for ensuring that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply including the growth of such demand.

4.2.2 The licensee shall bear the cost for strengthening, augmentation and up-gradation of the system, to meet the demand of general areas, through its annual revenue requirements (ARR) and the licensee shall seek to recover these costs from the consumers by submitting appropriate tariff proposal before the Commission while submitting the ARR. However, for individual consumers, the provisions of Regulations 4.2.3 and 4.2.4 shall apply.

4.2.3 The cost of extension of distribution main and its up-gradation up to the point of supply for meeting demand of a consumer, whether new or existing, and any strengthening/augmentation/up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per the Regulations framed by the Commission under Section 46 of the Act.

2.6 That the Regulation 3.2.2 of the Electricity Supply Code 2014 was subsequently amended as 1st Amendment on 17.11.2014 as under:

Existing Regulation 3.2.2 shall be substituted with the following Regulation.

3.2.2 Provided that in case where supply, depending upon the technical conditions of the transmission/distribution system, has to be given at a voltage other than those specified above, the licensee may give the same subject to the Commission's approval.

Provided further that in case an existing consumer gets his contracted load reduced, he may be allowed to continue receiving supply at the same voltage unless he himself requests for supply at lower voltage subject to the condition that his reduced load is in High Tension category.

2.7 That the Regulation 3.2.2 was again amended vide 2nd Amendment on 8th January 2020 as under:

"Existing Regulation 3.2.2 shall be substituted with the following:

3.2.2 In case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1 / approved plan, the licensee may accept the request of the applicant with the approval of the Commission.

Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA upto 8 MVA may be served through 11 KV feeder with appropriate type/size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection of 11 KV is borne by the consumer.

Provided further that, in case intermediate voltage level between 33 KV and 220 KV is not available in the area of supply of the licensee, the load upto 37.5 MVA may be served through 33 KV feeder with appropriate type/ size of conductor provided the difference of cost of substation as per Regulation 3.2.1 at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection on 33 KV is borne by the consumer."

That it is evident from above 2nd amendment that the whole premise on which the amendment was based was the "Consumer's Request" *i.e. the licensee may accept the request of the applicant with the approval of the Commission.* This is exactly what has also been expressed by the Hon'ble Commission in its 16.01.2026 order i.e. *the Commission notes that Regulation 3.2.2 intends recovery of differential cost where supply is given at a voltage other than the specified level. However, the regulation proceeds on the premise that such higher voltage infrastructure is available or is to be created. In the present case, the material on record, including the sanctioned electrification plans and correspondence, clearly establishes that 33 kV infrastructure is not available in the vicinity and, as stated by the petitioner without specific rebuttal, HVPN has taken a policy decision not to allow further 33 kV bays at existing 66 kV substations in Faridabad. In such a situation, no expenditure is either incurred or proposed to be incurred by the respondents towards creation of 33 kV infrastructure for the petitioner. Demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery which results in unjust enrichment of the distribution licensee.*

2.8 That to demand recovery of an expenditure which has neither been incurred nor is proposed to be incurred by the licensee is not only an unjust enrichment but also against the very essence and mandate of Section 46 of the Act of 2003.

2.9 Section 46 of the Electricity Act 2003 is reproduced as under:

(Power to recover expenditure): The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses

reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

2.10 That further, in 2016, the Hon'ble Commission promulgated another Regulation in the name of "Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016, the relevant provisions of which are reproduced as under:

3 DUTY OF DISTRIBUTION LICENSEE TO SUPPLY ON REQUEST

3.1 Every distribution licensee, shall, on an application by the owner or occupier of any premises located in his area of supply, give supply of electricity to such premises within the timeframe specified under Regulation 4 of the Electricity Supply Code, after receipt of the application complete in all respects requiring such supply, provided:

(1) the supply of power is technically feasible. Where it is found not to be feasible, the licensee shall endeavour to improve feasibility at the earliest.

(2) the applicant has complied with the procedure and conditions as specified in Regulation 4 of the Electricity Supply Code and these Regulations.

3.2 The system of supply and voltage shall depend on the category of the consumer and the load as per details given under Regulations 3.1 and 3.2 of the Electricity Supply Code.

3.3 It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified under Regulation 3.1 above.

3.4 It shall be the responsibility of the licensee to have necessary arrangements with the respective transmission licensee(s) to ensure that the required supply at High Tension above 33 KV is made available within the timeframe specified under Regulation 4 of the Electricity Supply Code".

4. POWER TO RECOVER EXPENDITURE

4.1 Subject to the provisions of the Act and these Regulations and subject further to such directions, orders or guidelines issued by the Commission, every distribution licensee is entitled to recover from an applicant requiring a supply of electricity or modification in existing connection, any expenses reasonably incurred by the distribution licensee in providing any electric line or electrical plant used for the purpose of giving that supply. The service connection charges or the actual expenditure to recover such expenses shall be computed in accordance with these Regulations.

4.2 The licensee shall prominently display on its website and in its offices, details of various charges / security amount to be deposited by the applicant along with the application, in accordance with the stipulation in these Regulations.

4.3 The licensee shall be responsible for ensuring that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply including future growth of such demand.

4.4 The licensee shall bear the cost of such strengthening, augmentation, up-gradation and extension of the distribution system to meet the existing demand and future expected growth of demand through its annual revenue requirements (ARR) and such cost shall be allowed to be recovered through tariff after prudence check by the Commission. However, for individual consumers, the provision of Regulation 4.6 shall apply.

4.5 The licensee shall also not claim any payment or reimbursement from the applicant for any expenditure incurred or to be incurred by the licensee in terms of or under any scheme approved by the Commission or when such expenditure is otherwise allowed to be recovered through tariff by the licensee as a part of the revenue requirements of the licensee.

4.6 The cost of extension of distribution main and/or its up-gradation up to the point of supply for meeting the demand of a consumer, whether new or existing, and any strengthening/augmentation/up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per these Regulations.

4.7 However, cost of augmentation of substation or creation of a new substation or cost of augmentation of the line feeding the substation from where the supply is to be given shall not form part of cost to be recovered from the consumer or collective body of consumers as per Regulation 4.6."

2.11 That it is evident from all the Regulations reproduced above that the distribution licensee is authorized to recover only that expenditure which it has reasonably incurred in creation of the electrical infrastructure.

2.12 That it is a settled law that all the delegated legislations, regulations or instructions framed by any subordinate authority must not be in violation of any of the Sections of the Act passed by the Parliament. Section 46 of Electricity Act 2003, as reproduced above, clearly says that an expenditure which has not been incurred by the licensee cannot be recovered from consumers, and therefore any Regulation which is contrary to the provisions of the Act must be amended so as to be in line with the intention, essence and spirit of the Act.

2.13 That Regulation 4.1 of the "Haryana Electricity Regulatory Commission ((Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016 therefore clearly mentions that *"distribution licensee is entitled to recover from an applicant requiring a supply of electricity or modification in existing connection, any expenses reasonably incurred by the distribution licensee in providing any electric line or electrical plant used for the purpose of giving that supply"*

2.14 That a cogent reading of the 16.01.2026 order also reveals that the Hon'ble Commission in its order has not said anywhere that the differential cost of 33 kV and 11 kV should not be recovered. The order only says that the differential cost is deferred till such time the 33 kV network is created by the licensee and an expenditure to that effect is reasonably incurred. Therefore, to seek a review of the 16.01.2026 order makes no sense at all. By bringing in a review petition and to seek reversal of the order, it seems that the Petitioners have not understood the law or its interpretation in clear terms. By bringing in the present review Petition, the Petitioners have tried to justify their unjust enrichment at the cost of consumers. The Petitioners have yet again failed to appreciate the fact that the Respondent had never refused to take the connection at 33 kV level, or to disobey the Regulations or the sales circulars in that regard. On the contrary, it was the Petitioners themselves who were not in a position to provide the load at 33 kV level.

2.15 Hence, the acts of the Petitioners in demanding the differential cost of 33 kV infrastructure from the Respondents which the Petitioners shall not be incurring, are unreasonable, arbitrary and amounts to unjust enrichment at the cost of the Respondents besides being violative of the very mandate of the Electricity Act 2003, the objective whereof is to provide efficient, cost effective and consumer friendly services to the consumer under revenue neutral regime.

2.16 That where the constraints are on the part of Petitioners, they are mandated to recover only that expenditure which they have either incurred or going to incur and not against any such hypothetical infrastructure which they shall never create. If any Regulation, or part thereof, mandates such recovery, it has to be suitably amended / amended so as to fall in line with the mandate of the Act.

Para-wise reply to the preliminary submissions made under reply filed by the Respondents:

Para no.1 That the Petitioners have filed the present petition under Section 94 (1) (c) of the Electricity Act 2003. The section is reproduced as under:

Section 94. (Powers of Appropriate Commission): (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:

(c) receiving evidence on affidavits;

It is not understood as to what evidence the Petitioners want to receive or give in the shape of affidavits. The Section 94 (1) (c) is not applicable to the present context in which the petition has been filed and is therefore liable to be dismissed in the first instance.

Para no. 2.1 Contents of para are a matter of record, being a reproduction of the Hon'ble Commission's order dated 16.01.2026. Hence, no specific response is required.

Para no. 2.2 Contents of the para are wrong, misleading, misinterpreted and hence denied. The Petitioners have no ground whatsoever, to invoke the review of the order dated 16.01.2026. Regulation 3.2.2, if given a cogent reading, is premised on the "Request of the Consumer" to take supply at a voltage other than the one prescribed in Regulation 3.2.1 of the Electricity Supply Code

(1st Amendment) and that is exactly what the Hon'ble Commission has recorded in its order. The Petitioners have also failed to understand the foreground of the 2nd amendment to 3.2.2. It may be seen that the original Regulation 3.2.2 did not take care of the consumer's request i.e. a case where the consumer wanted to have supply at a voltage other the specified one despite the fact that the prescribed voltage level was available. And, this was to be done with the approval of Hon'ble Commission. Further in the Review Petition as referred to in 3.2 below, It is important to note that it was the Petitioners only who had approached the Commission to allow a load up to 10 MVA on 11 kV through 2 nos. 11 kV feeders. It was so because in some areas, especially Gurugram and Faridabad, 33 kV level was not available and it was not justified to force a consumer to take supply at 66 kV level for a load just exceeding 5 MVA. No consumer had approached the Hon'ble Commission to request for any relaxation or amendment of the Regulation. Therefore, the Preamble behind bringing in 2nd amendment in Regulation 3.2.2 was that despite the voltage level having been created by the licensee, and a reasonable expenditure having been incurred on it, if a consumer wants to have the supply at a lower voltage than the mandated one, approval of Commission was made necessary. Also, in a way, the Petitioners themselves have answered to their own question. They have themselves stated in the para that they can recover only which has been reasonably incurred by the licensee. Section 46 of the Act which only empowers recovery of expenses reasonably incurred. On the contrary, they themselves have admitted that they had not created or incurred any expenditure on 33 kV level nor they are going to create the said infrastructure in future. Hence, they were not authorized to recover the differential cost on hypothetical assumptions The Petitioners have said in the para that the order dated 16.01.2026 is contrary to the scheme and mandate of Section 46 of the Act whereas the order actually strengthens the intent and essence of Section 46. The Petitioners have also failed to realize that the order is not arbitrary but is a detailed and reasoned order, which has deliberated Regulation 3.2.2 at length and the context in which it had been amended in 2020. Therefore, to come before the Commission for a review of an already detailed and reasoned order just does not sustain and is liable to be dismissed.

Para no. 2.3 Contents of the para are wrong, misleading, misinterpreted and hence denied. It may be seen from the record that the Petition no. 29 of 2017 was filed by the Petitioners only just to hide their own inefficiency and their failure to create the prescribed voltage levels in accordance with Regulation 3.2.1 of the Electricity Supply Code, 2014. Instead in the aforesaid Petition, the Petitioner/DHBVN had approached the hon'ble Commission for removal of difficulty, which in fact was not a difficulty but only proving their incapacity and lack of will to erect 33 kV level in some areas to cater to a load up to 25 MVA despite the fact that the voltage levels had been defined and prescribed way back in 2014. The record also shows that no comments were received from the public and it was more like a unilateral submission by the Petitioners without any other stakeholder having been heard in the matter.

Actually, the premise behind demanding differential cost was only for the situation where the system voltage as per Regulation 3.2.1 existed but it was the consumer who wanted the supply at lower voltage level to avoid expenditure on creation of the higher voltage infrastructure and substation. But where the mandated voltage level was neither created nor there was any possibility of its creation, it was illegal to hold the consumer accountable for such lapse and to force him to bear the hypothetical cost a substation, line and bay which would never be created.

Para no. 3.1 The contents of Para 3.1 pertains to the different sections of various Acts and needs no response.

Para no. 3.2 Contents of the para are same as those of para no. 2.3 above and are wrong, misleading, misinterpreted and hence denied. The contents of Para 2.3 are to be read herein and are not repeated for the sake of brevity.

Para no. 3.3 Contents of the para are same as those of para no. 3.2 above and are wrong, misleading, misinterpreted and hence denied. Apart from repeating what they have already said in above paras, the Petitioners have also tried to justify the demand of differential cost by falsely claiming that the differential cost so deposited by the consumer would be utilized to augment the 66 kV substation from where the 11 kV feeders emanate. Here, yet again the Petitioners have failed to understand the Regulation 4.2.3 of the Electricity Supply Code 2014 which says that: *"The cost of extension of distribution main and its up-gradation up to the point of supply for meeting demand of a consumer, whether new or existing, and any strengthening/augmentation/up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per the Regulations framed by the Commission under Section 46 of the Act.*

Also, the petitioners have failed to understand mandate of Regulation 4.6 and 4.7 of "Haryana Electricity Regulatory Commission ((Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016, which clearly say that only those costs can be recovered from consumer which are incurred for the system starting from the feeding substation up to the consumer premises:

4.6 The cost of extension of distribution main and/or its up-gradation up to the point of supply for meeting the demand of a consumer, whether new or existing, and any strengthening/augmentation/up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per these Regulations.
4.7 However, cost of augmentation of substation or creation of a new substation or cost of augmentation of the line feeding the substation from where the supply is to be given shall not form part of cost to be recovered from the consumer or collective body of consumers as per Regulation 4.6."

By saying that the differential cost so deposited by the consumer will be utilized to augment the feeding substation from where 11 kV feeders emanate, the Petitioners themselves have admitted that they were not aware of the provisions laid down under Regulation 4.2.3 of Electricity Supply Code, 2014 and Regulation 4.7 of the "Haryana Electricity Regulatory Commission ((Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016".

The Petitioners have overlooked the Regulation 4.7 which clearly stipulates that differential cost recovered from consumers cannot be utilized for augmentation of substation or creation of a new substation or cost of augmentation of the line feeding the substation from where the supply is to be given. Therefore, contention and the justification given by the Petitioners does not sustain legally and hence are liable to be dismissed

Para no. 3.4 The contents of Para no. 3.4 are a matter of record. Hence require no response/comments.

Para no. 3.5 The contents of Para no. 3.5 are a matter of record. Hence require no response/comments.

Para no. 3.6 The contents of Para no. 3.6 are a matter of record. Hence require no response/comments.

Para no. 3.7 The contents of Para no. 3.7 are a matter of record. Hence require no response/comments.

Para no. 3.8 The contents of Para no. 3.8 are a matter of record. Hence require no response/comments.

Para no. 3.9 This is a matter of record. However, the contention that the order of 16.01.2026 is in violation of Regulation 3.2.2 is factually and legally incorrect. In fact, the order dated 16.01.2026 has further strengthened Section 46 of the Electricity Act 2003 and the Regulation. The Petitioners have deliberately chosen to ignore the intent of Section 46 of the Act because its disregard brings them an unjust enrichment at the cost of consumers. The Petitioners have also failed to realize that the hon'ble Commission in 16.01.2026 order had discussed Regulation 3.2.2 at length, has recorded detailed reason and premise on which the Regulation had been amended. The

Commission rightly held that Regulation 3.2.2 was premised on the creation of 33 kV infrastructure and that in a situation where no such infrastructure will be created, the demand of differential cost amounts to unjust enrichment. Review filed under section 94(1)(c) pertains merely to the power of the Commission to receive evidence on affidavit during inquiry or proceedings. It does not confer any power of review. The review jurisdiction of the Commission is governed by Regulations 57, 58, 65 and 66 of the HERC (Conduct of Business) Regulations, 2019, which provides that the Commission shall exercise its review jurisdiction in accordance with the provisions of the Code of Civil Procedure, 1908 (CPC). The invocation of Section 94(1)(c) as the basis for a review is wholly misconceived and the petition is non-maintainable. Therefore, the Petitioners have no grounds, whatsoever to invoke review of the order. The present Review Petition is merely an attempt to re-litigate issues that have already been conclusively decided.

Para no. 4 GROUND FOR REVIEW

(A) Contents of the para are wrong, misleading, misinterpreted and hence denied. There is no error in the order dated 16.01.2026 of the Hon'ble Commission. The Petitioners' interpretation of Regulation 3.2.2 is self-serving and attempting to read in a manner that is fundamentally inconsistent with its legislative intent.They have not realized that Regulation 3.2.2 actually had to be amended on their own request because they wanted to give supply to some of the consumers on consumers' request at a voltage other than the mandated one under Regulation 3.2.1. They also must realize that no consumer had ever approached the Hon'ble Commission for any amendment or relaxation in the existing Regulation. Had the Petitioners created the prescribed voltage levels within a given time frame, there would not have been any need to amend the Regulation. Therefore, the Hon'ble Commission has very rightly pointed out in the order that amendment of Regulation 3.2.2 was primarily premised on the consumers' request for supply at a voltage other than the one defined under Regulation 3.2.1. Meaning thereby that the amended Regulation was premised presuming that there existed the mandated voltage level on which the licensee had incurred the expenditure but it was the consumer who wanted to have supply at a different voltage level. If one reads the whole context cogently, the concept of recovering the differential cost of 33 kV and 11 kV originated as a deterrent for such consumers to avoid the prescribed voltage level for a particular load presuming that the prescribed voltage level had already been created by the licensee after incurring a reasonable expenditure and that the Petitioners were within their rights to recover such cost. But definitely, it was not for unjust enrichment of the Petitioner and also it was never the intent of Regulation that the licensee could recover an expenditure which had not been incurred. Therefore, contention of the Petitioner that there has occurred an error or that the order runs contrary to the Regulation is absolutely wrong, misplaced and liable to be dismissed.

(B) Contents of the para are totally baseless, wrong, misleading and hence denied. The Hon'ble Commission in 16.01.2026 order has expressly recorded that the amendment and the order in case no. 29 of 2017 was premised on the presumption that the mandated voltage level actually existed and that it was the consumers who wanted on their request to have supply at a voltage other than the mandated one. As already explained in para "A" above, if some expenditure has been incurred by the licensee, there is every reason for them to recover the same. But at the same time, it cannot be permitted, not only by this Commission but also by any other court of law, to recover something which has not been incurred. Not having created the prescribed voltage level and not having incurred any expenditure, the licensee has no legal mandate to recover what has not been incurred. Differential cost is payable when the consumer exercises a choice to take supply at a lower voltage than what is available. Where the higher voltage infrastructure is neither available nor is ever going to be created, there is no such choice to be exercised, and the premise of the differential cost provision simply does not apply. Therefore, the Petitioner's contention that the order has defeated the very purpose of Regulation is absolutely misplaced and is liable to be dismissed. In fact, as already mentioned in the above paras, the order of 16.01.2026 has only strengthened the legal provision laid down under Section 46 of the Act of 2003.

(C) Contents of the para are wrong, misplaced and hence denied. Also, the contents are a repetition of the contents of their reply they had submitted in the main petition 11 of 2025. The Respondents in the present case never ever filed the petition 11 of 2025 to cover up any commercial hardships or financial inconvenience. But it was filed purely on technical grounds and because the licensee had been demanding a differential cost of 33 kV and 11 kV despite the fact that they had not created 33 kV voltage level in the area. Also, inability give voltage supply at 33 kV level was their own decision due to constraints on their part. That the licensee had no legal sanction to recover the hypothetical expenditure which they had not incurred. Because the matter has been suitably addressed in 16.01.2026 order, it makes no sense to repeat the contents here in the petition.

(D) Contents of the para are wrong, misleading, deceptive and hence denied. This is merely an attempt by the Petitioner to re-litigate the issues which have been already settled by the Hon'ble Commission. The grounds taken in review are just a repetition of their submission in main petition. The petition 11 of 2025 was a result of wrongful interpretation of the Regulation 3.2.2. As already explained in above paras, the 2nd amendment to

Regulation 3.2.2 had to be effected, mainly because of Licensee's own operational limitations and constraints. And the premise, as rightly pointed out by the Hon'ble Commission in the order, was to act on the consumers' request for change in the mandated voltage level of supply. In case no. 11 of 2025, as also expressly noted by the Commission, there was no request from the Respondent to take the supply at a lower voltage at 11 kV. Even the Bank Guarantees of 33 kV infrastructure had been deposited with the licensee which were later returned because of constraints on their own part. Substantive intent of the Regulation was never to permit recovery of a hypothetical expenditure.

(E) Contents of the para are wrong, misleading, misinterpreted and hence denied. It is not correct on the part of the Petitioners to allege that the Principal Regulation has been amended by an adjudicatory order. The order dated 16.01.2026 has only addressed a situation where differential cost had been demanded by the Petitioners without creating 33 kV level in the area. It needs to be noted that Electricity Act 2003 does not mandate recovery of an amount from the consumers, which has not been incurred by the licensee. The above said order has only reinforced the mandate of Section 46 which says that the licensee is authorized to recover only the expenditure which has been reasonably incurred. Even otherwise, where constraints are on the part of licensee, demanding differential cost between 33 kV and 11 kV from the consumer is materially gross injustice to the consumer. On one hand, the consumer has been made to pay for 33 kV infrastructure and on the other, no assets of 33 kV get created at his property. Thus, the consumer pays only for hypothetical assets, which will remain hypothetical for all times to come.

(F) Contents of para are true to the extent that Section 46 of the Electricity Act 2003 mandates recovery of only the expenditure which has been reasonably incurred by the licensee. This is exactly what the Respondents are also pleading and is exactly what the Hon'ble Commission has said in the order. The principle affirmed in the Order is also supported by Regulations 4.6 and 4.7 of the Duty to Supply Regulations, 2016, which clearly distinguish between: (a) cost of extension/up-gradation of the distribution system from the feeding substation, which is recoverable from the consumer (Regulation 4.6); and (b) cost of augmentation of the substation or the line feeding the substation, which is NOT recoverable from the consumer and must be recovered through the ARR (Regulation 4.7). In the present case, the Petitioners have demanded an expenditure against 33 kV infrastructure which they have not created. Therefore, to say that the Petitioners are demanding only the expenditure reasonably incurred on 33 kV is absolutely wrong and deceptive.

(G) Contents of the para are totally misplaced and misconceived. The Petitioners have cited 2 nos. judgments of the Apex Court. One in "PTC" case and the other in "Tamil Nadu Electricity Board". Going by the cited judgments, it reveals that both the judgments have no relevance so far as the present review petition is concerned. Mainly because, the Hon'ble Commission in its 16.01.2026 order has neither amended the Regulation 3.2.2 nor has prohibited the Petitioners from recovery of differential cost of 33 kV and 11 kV infrastructures. The order explicitly says that till such time the 33 kV level is created by the Petitioners, the demand of differential cost should be deferred solely on the grounds that Section 46 of the Act does not permit recovery of any hypothetical cost. The two nos. judgments cited above also say that Sections of Electricity Act have to prevail over any other delegated legislation. In Tamil Nadu case judgment, the question was that a reasonable opportunity had not been granted to one of the parties. But in the present matter case no. 11 of 2025, the Petitioners got sufficient opportunity and time to file their submissions and objections. Therefore, to cite judgments, which are not relevant is of no use to Petitioners.

(H) Contents of the para are absolutely wrong, misconceived and hence denied. Further, contents of the para indicate that Petitioners have probably taken the 16.01.2026 order as an amendment or overruling of the Regulation 3.2.2, which is not the case. The order only reinforces Section 46 of the Act whereby recovery of any hypothetical expenditure is prohibited. Unjust enrichment of the Petitioners at the cost of Respondents is neither permissible under the law nor it would stand the legal scrutiny before any court of law.

(I) Contents of the para are totally wrong, misinterpreted, misconceived and hence denied. The Petitioners in the para have cited as excerpts from the order passed by the Hon'ble Commission on dated 10.12.2019 in Petition no. 29 of 2017 that the amount deposited by the concerned consumer towards the differential cost between 33 kV and 11 kV supply is intended to be utilized for augmentation of 66 kV substation from where the 11 kV feeders emanate, while the remaining cost of such augmentation is recovered through the Aggregate Revenue Requirement (ARR) mechanism in accordance with the applicable regulatory framework. A cogent reading of the order dated 10.12.2019 reveals that no such remarks were recorded by the Hon'ble Commission. It is not known from where the Petitioners have cited such observations / remarks. The Commission's order cannot record such observations / comments because Regulations 4.6 and 4.7 of the Duty to Supply Regulations of 2016 itself make it clear that the cost to be recovered from consumers does not include the cost of augmentation of substations. Therefore, to say that in light of the order dated 16.01.2026, the cost of augmentation of 66 kV substation would now have to be spread on common consumers of the state is not correct on the part of Petitioners. In fact, it seems that the Petitioners have not understood the Regulations properly and are just bent upon recovering the differential cost just to enrich themselves at the cost of consumers. If Regulation 3.2.2, as interpreted by Respondent, permits recovery of differential cost even for infrastructure that will never be created, such an interpretation would be ultra vires Section 46 of the Electricity Act, 2003. A valid interpretation must bring the Regulation in harmony with the Act, which is precisely what the Order dated 16.01.2026 has done. The whole contention of Petitioners in the para are misplaced and are liable to be dismissed out rightly.

(J) Contents of the para are wrong, grossly misplaced, misconceived and hence denied. The Petitioners have failed to concede that costs not yet incurred cannot be recovered. Instead, they erroneously contend that the order dated 16.01.2026 precludes the future recovery of differential costs, thereby shifting the financial burden of substation augmentations to the ARRs. Their assertion that this will inevitably lead to tariff increases ignores the basic principle that in the absence of actual expenditure, the necessity for recovery via ARRs or otherwise, does not arise. The present case presents a unique situation covered by 'Situation 4' as identified in the original petition, where the system constraints neither permit the connection at 33 kV level at present nor is there any possibility of creation of 33 kV level in future. The Regulation does not expressly address this scenario, which the Hon'ble Commission by its order dated 16.01.2026 has been able to address it. As far as augmentation of substations is concerned, Regulations have made it clear that the same has to be recovered through ARRs. As such, contention of Petitioners in the para are totally without any legal sanctity and are liable to be dismissed.

(K) Contents of the para are totally wrong, highly misplaced, grossly misconceived and hence denied. In a way, by admitting that the prescribed voltage levels may not be available in some areas due to technical constraints, the Petitioners have themselves shown their non-readiness to implement the Regulation 3.2.1. In such an eventuality, the Petitioners should have informed the Hon'ble Commission that they would not be able to implement the provisions of Regulation 3.2.1 and instead should have come up with some solution to the problems or to get the Regulation relaxed / amended. But instead of doing that, the Petitioners found it as an easy path to plead before the Hon'ble Commission to allow them the differential cost against the mandate of Section 46 of the Electricity Act 2003. This is not a case where the respondent voluntarily chose a lower voltage level despite a higher one being available. On the contrary, while the respondent has deposited the Bank Guarantee, they were compelled to accept the connection at 11 kV solely due to the petitioner's own infrastructural constraints. Consequently, the issue of absolving from depositing the statutory expenses does not arise. The mandate of payment of differential costs arises in scenarios where the consumer elected a lower voltage level even when the necessary infrastructure was available or it is going to be created in the future. Contention of the Petitioners in this para are also not sustainable in the eyes of law and are liable to be dismissed.

(L) Contents of the para are wrong, misplaced, misinterpreted and hence denied. It is absolutely unfair on the part of petitioners to blame the consumers for not agreeing to pay the differential cost just because they themselves have not been able to implement the provisions of Regulations 3.2.1. Despite the voltage levels having been defined in 2014, they have not created 33 kV levels in many areas even after 12 years of the promulgation of the Regulation and the Electricity Supply Code. Instead of accepting their own lapses, they have come before the Commission blaming the consumers for not agreeing to pay the differential cost. The Respondents here fail to understand as to what benefit the Petitioners would reap out of the differential cost because the assets are not going to be created for the consumer even after paying the differential cost. The Regulation proceeds on the premise that such higher voltage infrastructure is available or is to be created. The differential cost is payable when the consumer exercises a choice to take supply at a lower voltage than what is available/prescribed. Where the higher voltage infrastructure is neither available nor is ever going to be created, there is no such choice to be exercised, and the premise of the differential cost provision simply does not apply. The contentions of the Petitioner is contrary to Regulation 4.7 of the Duty to Supply Regulations, 2016, which categorically provides that cost of augmentation of a substation shall NOT form part of cost to be recovered from the consumer. This is a blatant case of unjust enrichment of the Petitioners at the cost of consumers. Contention of the Petitioners does not stand the legal scrutiny and are liable to be dismissed.

(M) Contents of the para are wrong, misconceived, deceptive and hence denied.. On one hand they have said that the voltage levels in Regulation 3.2.1 have been defined purely on the technical requirement and expertise they have gained over the years. Yet they have not created the infrastructure in accordance with the said Regulation. Also, as a Respondent in the present case, we fail to understand as to how the recovery of differential cost would compensate for the technical necessity. If a particular load is the required to be released at some standard voltage, according to the technical requirement and the Regulation, then how the cost recovery would compensate the technical necessity. The contents of "para L" is to be read herein and are not repeated for the sake of brevity. Therefore, the contention of Petitioners in the para are totally unfounded, highly misplaced and liable to be dismissed.

(N) Contents of the para are wrong again, highly misconceived and misinterpreted and hence denied. Repeating same contents again and again does not make any sense when Section 46 of the Act explicitly mandates that only that cost can be recovered against which a reasonable expenditure has been incurred. The premise behind the 2nd Amendment was that the higher voltage infrastructure existed somewhere in the system and it was the consumer who, at his request, wanted supply at a lower voltage. The situation where no such infrastructure exists and where the responsible authorities have decided that no 33 kV infrastructure shall be created in the area, the demand of differential cost amounts to unjust enrichment. The Hon'ble Commission has passed the order dated 16.01.2026 after due deliberations, arguments, giving sufficient opportunities to all the stakeholders and after recording express evaluations and averments. The Petitioners in the present review petition have not come up with any new issue or substantive grounds which warrant for review of 16.01.2026 order duly passed by the Commission. Contention of Petitioners in this para are unjust, lack any legal scrutiny and are liable to be dismissed.

Para no. 5 Contents of the para are absolutely wrong, misplaced, misinterpreted and hence denied. There is gross misconception in the minds of Petitioners that asking for differential cost in fact does not disregard the mandate of Section 46 of the Act. Most of the contents of para are repetitive in nature, which they have already discussed in different previous paras and therefore, need not be replied to again for sake of brevity. Contention of the Petitioners is primarily to insist upon recovery of differential cost without realizing that it is only their unjust enrichment and only a method to recover hypothetical expenditure, which has neither been incurred nor there is any possibility of incurring. As such, contents of the para are liable to be rejected and dismissed out rightly.

Para nos. 6 & 7 No comments. Just the concluding paras of the review petition.

PRAYER

The Review Petition is not maintainable on the following grounds:

1. That the petitioners have raised the same issues in the review petition which formed part of their detailed replies as Respondents in case no. 11 of 2025
2. That the Petitioners got sufficient time and opportunity to defend themselves as Respondents in case no. 11 of 2025 and therefore, have no reason, whatsoever, to come up with the same set of submissions and arguments

3. That Petitioners in the present review petition have not come up with any new or additional or substantively different set of submissions or arguments which warrant a fresh discussion and arguments.
4. Demanding for a cost against which no expenditure has been incurred is against the explicit intent and mandate of Section 46 of Electricity Act 2026
5. By not creating the mandated voltage levels in compliance of the Regulation 3.2.1 of Electricity Supply Code 2014, the Petitioners have no legal mandate to ask compensation for their own lapses.
6. Pass any other order as this Hon'ble Commission may deem fit.

Hence, it is humbly prayed before the Hon'ble Commission to dismiss the review petition and confirm and uphold the Order dated 16.01.2026 passed in Case No. HERC/P. No. 11 of 2025 in its entirety.

3. The case was heard on 04/06/2026, as scheduled, in the court room of the Commission. Sh. Raheel Kohli counsel for review petitioner requested for condonation of delay of 9 days in filing the review petition. To the query of the Commission, Sh. Sanjeev Chopra conveyed his no objection on condonation of delay. He further submitted that the reply has already been filed. The Counsel for the petitioner submitted that he is not interested in filing any rejoinder and requested to fix the case for arguments. Acceding to the request, the Commission condones the delay of 9 days and disposes of the IA-15 of 2026. The case is fixed for arguments along with P.No. 21 of 2026.
4. The case was heard on 08/07/2026, as scheduled, in the court room of the Commission. Sh. Sanjeev Chopra representative of respondent submitted that petition for execution of order passed in P.No. 11 of 2025 has been fixed for hearing on 26/08/2026 and requested to hear the review petition along with P.No. 21 of 2026. Acceding to the request, the Commission adjourns the matter and decides to hear the review petition along with P.No. 21 of 2026.

Commission's Order:

1. The matter was heard on 26/08/2026 along with Petition No. 21 of 2026, as scheduled, in the court room of the Commission.
2. Sh. Raheel Kohli, counsel for the petitioner in this Review Petition, submitted that the Commission's order dated 16/01/2026 passed in

Petition No. 11 of 2026 has been fully and completely complied with by the petitioner.

3. On consideration of the review petition, the respondent's reply and the record, the Commission notes the respondent's procedural objection that invocation of Section 94(1)(c) of the Electricity Act, 2003 is misconceived, as the said provision only empowers the Commission to "receive evidence on affidavits" during inquiries and cannot be used to re-argue or re-litigate issues already conclusively decided; the petitioner's counsel, during the hearing on 04/06/2026, declined to file a rejoinder, leaving this contention unchallenged.
4. The record shows that the respondent did not voluntarily opt for 11 kV supply; an initial electrification plan for an ultimate load of 7242.81 kW / 8047.57 kVA was sanctioned, accordingly, a bank guarantee was deposited in anticipation of 33 kV supply. The 33 kV arrangement could not be operationalized solely because the transmission licensee refused to permit additional 33 kV bays at the existing 66 kV Sub-Station Sector 37, Faridabad. In these circumstances, insisting on payment of a differential cost for non-existent 33 kV infrastructure, while the respondent has already constructed the entire 11 kV feeder at its own cost, would be arbitrary.
5. The issues raised in the present review are substantially the same as those already adjudicated in Petition No. 11 of 2026, and the petitioner had sufficient time and opportunity to advance its case as respondent in that proceeding. No new, additional or substantively different submissions have been placed which would warrant a fresh discussion or a different conclusion.
6. The Commission accordingly finds no error apparent on the face of the record in the Original Order dated 16.01.2026. That order did not delete or invalidate Regulation 3.2.2; it harmonized the same with Section 46 of the Act by deferring recovery of the differential cost until the 33 kV network is actually created by the licensee. The petitioner has already complied with the directions contained therein, and the present review is, in effect, an attempt to re-agitate the very issues already concluded.
7. In view of the above, the Commission holds that:
   i. The order dated 16.01.2026 passed in Petition No. 11 of 2026 has been duly and completely complied with by the petitioner;
   ii. The review petition filed by DHBVNL, which is responsible for creation of 33 kV infrastructure, does not disclose any error

apparent on record and is an impermissible attempt to review a complied order;

iii. M/s RPS Infrastructure, the respondent in the present Review Petition, shall remain liable to pay the differential cost between 33 kV and 11 kV supply upon issuance of a readiness notice for 33 kV infrastructure by DHBVNL, as stipulated in the order dated 16.01.2026.

8. Accordingly, Review Petition No. 4 of 2026 is rejected as not maintainable.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 09/09/2026.

	-Sd/-	-Sd/-
Date: 09/09/2026	**(Shiv Kumar)**	**(Mukesh Garg)**
Place: Panchkula	**Member**	**Chairman**